

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 03 CAIRO 003089

SIPDIS

E.O. 12958: DECL: 04/24/2015

TAGS: [PGOV](#) [KDEM](#) [EG](#)

SUBJECT: EGYPTIAN JUDGES LAUNCH "INTIFADA", THREATEN TO
SKIP ELECTIONS

Classified by Charge Michael Corbin for reasons 1.4 (b) and
(d).

Summary

1. (C) Over 1000 Egyptian judges meeting under the auspices of the Alexandria Judges' Club launched in mid-April what one paper dubbed "the judges' intifada." In their meeting, the assembled judges threatened to abstain from their supervisory role in the fall 2005 elections unless a new draft judiciary law, containing expanded guarantees of independence, is passed during the current parliamentary session. The judges' defiant position poses a potentially serious dilemma for the GOE, which has clung to its system of judicial supervision of the elections as its key argument against foreign monitoring proposals. Some of our contacts, and other observers, believe the judges' move has major implications for the near-term political reform outlook, but one senior (reformist) judge we spoke with was dismissive and described the push for a new law as a cloaked effort to get judges a pay raise. We may have a clearer picture of the reformist judges' momentum and resonance after a national judges' organization meeting in to discuss next steps, which we understand is tentatively set to be held in Cairo on May 13. End summary.

2. (SBU) International and domestic media gave significant coverage in the past week to an April 15 meeting in Alexandria at which over 1000 judges demanded the passage of a new judiciary law and threatened to abstain from their supervisory role in the fall 2005 elections. The participating judges want a new judiciary law, a draft of which is currently before the parliament, to expand guarantees on their independence by reducing the ability of politicians to control their salaries and assignments, and also to more broadly define their supervisory role in elections. With characteristic hyperbole, the weekly tabloid al-Osboa described the judges' meeting as the launch of a "judges' intifada."

An Insider's Readout

3. (C) Counselor Assem Abdel Gabbar (protect), an Egyptian Supreme Court judge who resides in Alexandria and took a leading role in the April 15 Alexandria Judges' Club congress in that city, recently shared his views with A/DCM on the club's declaration. Abdel Gabbar said more than 1000 judges had attended the meeting (out of a total of approximately 8000 judges nationwide), which was normally limited to members of the Alexandria club. The other judges had come when they had heard the issue to be discussed, reflecting, Abdel Gabbar emphasized, the fact that the judges were "fed up." He said "only two of the judges out of the one thousand attending" had expressed any opposition to the final demands. He had received calls of support from judges from all over the country.

4. (C) Abdel Gabbar said that the move reflected the boiling over of the judiciary's frustration at the interference of the executive in judicial matters. He cited a 1986 effort by the judges to legislatively strengthen their independence which had been met with promises for action by the Government and then "sent into innumerable committees for study." Following the 2000 elections the judges had tried again to militate for judicial independence in terms of legislation clarifying their role in "monitoring" elections. Again the government had promised to take steps and had simply made motions without taking any real action. The judges' credibility was now on the line, Abdel Gabbar argued, stating that if they were to retain the the public's respect, they could not possibly certify another election plagued by the machinations of the ruling National Democratic Party and outright intimidation.

5. (C) This was not an attack on the government or a "political" move, Abdel Gabbar argued. The judges were reacting to years of frustration as they watched their role becoming increasingly circumscribed by the executive. Abdel Gabbar said he had received a call from the Minister of Justice himself, after the club released its findings and the

Minister had said the government intended to act on the judges demands. However, Abdel Gabbar said, the Minister had suggested the formation of a committee to consider how to draft a new law. This was transparently another ploy by the Government to put the judges off, he emphasized, but this time the judges would continue to press.

16. (C) The next step would be a conference of judges at the national level, which Abdel Gabbar predicted would be held within 2-3 weeks. (Note: We subsequently heard that it is tentatively set for May 13, in Cairo. End note.) The government had to react favorably, Abdel Gabbar reasoned, and he was optimistic that their would be a favorable response. Participants at a politically-themed lunch in Alexandria (which included Abdel Gabbar) characterized the judges' move as the most significant crisis the government has faced in the recent reform wave. Some speculated that the current atmosphere of openness had emboldened the judges but all agreed that the government was in a tight spot.

Judicial Watchdog Optimistic

17. (C) Nasser Amin, director of the Arab Center for the Independence of the Judiciary and Legal Processes (ACIJLP), told us that he thought the judges are motivated by two separate but related issues. One motive is simple self-interest: the judges have long sought improved pay, benefits, and operational independence. The second motive is their resurrection of a demand for greater independence from executive interference.

18. (C) The judges' demands in this regard stretch back at least to 1986, according to Amin. At a 1986 judicial conference attended by Mubarak, judges demanded the lifting of the state of emergency, the elimination of emergency courts, and full judicial independence. According to Amin, this move so annoyed the President that the GOE subsequently engineered the election of a pro-GOE judge to the leadership of the Judges Club, which in turn ensured the less vocal tendency that has characterized Egyptian judges for most of the past two decades. The latest Judges' Club election, however, put Zakariya Abdel Aziz (one of the leaders of the 1986 effort) in charge, and thus resurrected the 1986 demands.

19. (C) Amin's ACIJLP issued a statement hailing the decisions taken by the Alexandria Judges Club and endorsed the call for revisions to the laws governing the judiciary, full independence for the judiciary from executive interference, and a revision of the political rights law to ensure "judicial supervision of the electoral process from A to Z." The judges now seek full and total independence, according to Amin, for the judiciary and the election (instead of executive appointment) of the Higher Council of the Judiciary. He estimated that approximately one fifth of all judges strongly support this platform, and that their numbers are sufficient for them to have an impact if they decide to follow through on their threat to boycott the elections.

110. (C) Asked about the timing of the judges' initiative, Amin argued that "there are pressures from everywhere and the mood is one of change. The political parties are demanding it, civil society is demanding it, and so are the journalists, lawyers, and also the judges." Amin added that the judges feel that the GOE "needs" them to bolster the credibility of the elections and will therefore be likely to try to placate them, if not directly address all of their demands.

A Less Sanguine Judicial View

111. (C) Judge Nabil Omran (protect), a Vice President of the Court of Cassation with U.S. training and reformist instincts, gave poloff a less sanguine view of the April 15 judges' meeting and its implications. The judges' principal goal, Omran argued, was to secure a salary raise, a critical clause being folded into the draft judiciary new law. The judges' collective pride precluded the overt disclosure of this demand, Omran asserted. He described talk of the judges boycotting the elections as an empty threat.

Other Reformists Bullish

112. (C) Omran's skepticism notwithstanding, many of our reform-inclined contacts are enthusiastic about the judges' move and its implications. Hisham Kassem, publisher and senior member of the opposition Ghad Party, described the activism of the judges as a welcome step toward "rebuilding the instruments of government." According to Kassem, the Mubarak government has dramatically weakened "the four estates" and there is now a pressing need to rebuild these

institutions." Kassem observed that the judges' assertiveness could play a key role in supporting the establishment of true "civilian rule" in Egypt.

13. (C) Hossam Baghat, director of the Egyptian Initiative for Personal Rights, a respected human rights NGO, told us that the recent statements by the judges signaled a political development that could eclipse the importance of Mubarak's proposal to allow multi-party presidential elections. Baghat believes that the judges are prepared to push for full judicial control of the elections process, both inside and outside of the polls, as well as full (read financial) independence of the judiciary. According to Baghat, the judges first signaled their willingness to abandon the quietism of their civil law tradition in March 2003 when they issued a statement linking the U.S. invasion of Iraq directly to the lack of freedom in that country.

A Word of Caution

14. (C) According to Hossam Baghat, the USG needs to be careful not to take steps that would allow the GOE to tar the judges with charges of collaborating with foreign influences. He suggested that the USG could most constructively help the judges' movement through indirect support to the International Commission of Jurists, based in Geneva, which is interested in deepening its engagement with Egypt. In addition, said Baghat, the USG could encourage the GOE to permit a visit to Egypt by Leandro Despouy, the Special Rapporteur for the Independence of Judges and Lawyers of the U.N. Commission on Human Rights. According to Baghat, Despouy, an Argentinean, has a long-pending request with the GOE to visit.

Comment

15. (C) The judges' move threatens to put the GOE in a very awkward position. Senior GOE officials have steadfastly refused all suggestions of foreign election monitoring, insisting that its "unique" system of judicial electoral supervision was above reproach. Should the judges themselves criticize this process, and sustain their threats to abstain from participating, the GOE's claims of electoral credibility would be seriously undermined. We will be watching with interest the results of the general assembly of the national Egyptian judges' organization, which we understand is tentatively set for May 13. This meeting should give us a better idea whether the Alexandria judges' demands have momentum and national resonance. Post recommends that, if asked, we respond with general statements about the USG respect and support for the independence of the judiciary. In our private discussions with the GOE, we will urge them to address the judges' concerns in a way that supports a reform process led by Egyptians for Egyptians. End comment.

Visit Embassy Cairo's Classified Website:
<http://www.state.sgov.gov/p/nea/cairo>

You can also access this site through the
State Department's Classified SIPRNET website.

CORBIN